

REMARKS

Claims 1 and 2 and 6-10 have been amended.

The Examiner has objected to the Title of the Invention as not descriptive of the invention. Applicant has amended the Title of the Invention as above set forth to better describe the invention. The Examiner's objection has thus been obviated.

The Examiner has rejected claim 10 under 35 USC § 101 as directed to non-statutory subject matter. In particular, the Examiner has stated that the computer programs claimed are not a "physical thing" and hence are not statutory.

In order to overcome this rejection applicant has amended claim 10 to recite a "storage medium computer-readably storing program comprising a program code for causing a computer to execute said control method of claim 8." Amended claim 10 is thus now believed directed to a "physical thing", i.e., a storage medium, and defines the functional relationship between the computer program and the other components of the computer by further reciting that the storage medium "stores a program code to cause a computer to execute a control method of claim 8." Amended claim 10 thus satisfies the requirements of 35 USC § 101.

The Examiner has further rejected applicant's claims 1, 3 and 7-10 under 35 USC 102(e) as anticipated by the Kudo reference (US patent Application Pub. No. 2005/0225652). Claims 5 and 6 has been rejected under 35 USC §103(a) as unpatentable based on the Kudo reference. Finally, claims 2 and 4 have also been rejected under 35 USC 103(a) based on the latter reference taken with the Ejima reference (US Patent Application Pub. No. 2002/0008765). With respect to applicant's claims, as amended, these rejections are respectfully traversed.

Applicant's claim 1 has been amended to better define applicant's invention. More

particularly, amended claim 1 recites “[A]n image pickup apparatus including a first mode for picking up an object image and a second mode for reproducing a recorded image, said apparatus comprising: an operation member which is switched to said first mode according to an operation to a first position, and is switched to said second mode according to an operation to a second position, and further is forced to be suppressed to a third position different from each of the first position and the second position when said operation member is not operated by a user; and control means for changing control to said image pickup apparatus according to a current mode thereof and one of the first position and the second position, to which said operation member is operated from the third position.” Independent claims 7, 8 and 9 have been similarly amended.

As shown in FIG. 4 and set forth in the related description in applicant’s specification, the operation member (e.g., 2-1 shown in FIG. 2) of the present invention is forced by an enforcing member so as to remain in a state shown in FIG. 4A whenever it is not being operated by the user. This state corresponds to a “third position” recited in the amended independent claim 1. If the user operates the operation member to rotate it to the first position as shown in FIG. 4B, the image pickup apparatus shifts into an image pickup mode. However, when the user sets the operation member free from the user’s operation after the image pickup apparatus is shifted into the image pickup mode in accordance with the user’s operation, the operation member moves back to the third position shown in FIG. 4A.

If the user operates the operation member to rotate it to the second position as shown in FIG. 4C, the image pickup apparatus shifts into a reproduction mode. However, when the user sets the operation member free from the user’s operation after the image pickup apparatus is shifted into the reproduction mode in accordance with the user’s operation, the operation

member also moves back to the third position shown in FIG. 4A. In addition, the image pickup apparatus of the present invention is characterized by changing control thereto between a case where the operation member is operated by the user from the position shown in FIG. 4A to the position shown in FIG. 4C (the reproduction mode) when the apparatus is in the image pickup mode, and a case where operation member is operated by the user from the position shown in FIG. 4A to the position shown in FIG. 4C when the apparatus is in the reproduction mode. That is, even if the operation member is operated in the same manner, the different control is effected to the image pickup apparatus in accordance with the mode which the apparatus is in when the operation member is operated. (see, e.g., FIG. 6: steps S601, S603, S606 and S607; and steps S601, S603, S604 and S605). These features of the present invention are clearly recited in the amended independent claim 1.

The above-described features of the present invention are not taught or suggested by Kudo reference. In the Office Action, the Examiner refers to a mode setting dial 206 shown in FIG. 3 and reads applicant's claimed operation member on such a dial. However, the Kudo reference fails to teach that the mode setting dial 206 is arranged to be forced so as to be suppressed to a third position different from each of first and second mode positions when the operation member is not operated by a user, as recited in the amended independent claim 1.

In contrast, the setting dial 206 in the Kudo reference is simply a standard dial and there is no teaching or suggestion in the reference that it is forced to be suppressed to a third position different from first and second positions when the dial is not operated by a user. Likewise, the Kudo reference fails to teach or suggest control means for changing control to said image pickup apparatus according to a current mode thereof and one of the first position and the second position, to which said operation member is operated from the third position. Instead, in

the Kudo reference, the change of control amongst “PLAYBLACK”, “CAMERA” and “OFF” is based on the position of the switch only and there is no teaching of suggestion that it also is based on the current mode of the camera apparatus.

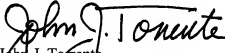
Applicant’s amended claims 1 and 7-9, and their respective dependent claims, all of which recite one or more of such features in combination with other recited features, thus patentably distinguish a over the Kudo reference. The cited Ejima reference fails to add anything to the Kudo reference to change this conclusion. Applicant’s amended claims thus patentably distinguish over both these references.

In view of the above, it is submitted that applicant’s claims, as amended, patentably distinguish over the cited art of record. Accordingly, reconsideration of the claims is respectfully requested.

Dated: September 12, 2007

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
1133 Avenue of the Americas
New York, New York 10036-6799
T: (212) 790-9273


John J. Torrente
Reg. No. 26,359
Attorney of Record